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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10577942 | 12/18/06 | WEISS ET AL. | P08919US00/BAS |

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EXAMINER

SUSAN HANLEY

| ART UNIT | PAPER |
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| 1651 | 20100215 |
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on 11/17/2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The currently amended claim are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims lack a special technical feature because the composition as originally claimed is known in the prior art. Daculsi (US 6,001,394; cited in the previous Office action) discloses a polymer comprising nonionic cellulose ethers comprising HEC, HPMC or HEMC having a silanolate side chain. The expression "special technical feature" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art (PCT Rule 13.2). Thus, a feature found in the prior art cannot be considered to be a special technical feature.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-4, 14 and 15 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

On 2/24/10, the examiner contacted Applicant's representative, Aaron Schulman to inform him of the non-responsive amendment and to afford Applicant the opportunity to file a response directed to the originally elected product claims. Mr. Schulman indicated that Applicant wanted the non-responsive letter to be sent out.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUSAN HANLEY whose telephone number is (571)272-2508. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Attachemnt: Examiner-initiated InterviewSummary

Susan Hanley/
Examiner, Art Unit 1651

PTO-90C (Rev.04-03)